

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

76-7166

To Be Argued By
Robert S. Anderson

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 76-7166

SAMUEL MALLIS and
FRANKLYN KUPFEEMAN,

Plaintiffs-Appellants,

- against -

FEDERAL DEPOSIT INSURANCE
CORPORATION, EUROPEAN-AMERICAN
BANK & TRUST COMPANY, FRANKLIN
NATIONAL BANK and THE BANKERS
TRUST COMPANY,

Defendants-Appellees.

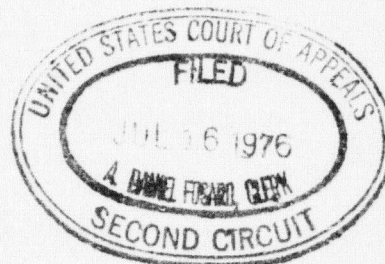
APPEAL FROM FINAL JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF OF DEFENDANT-APPELLEE
FRANKLIN NATIONAL BANK

HUGHES HUBBARD & REED
Attorneys for Federal Deposit
Insurance Corporation
as Receiver of Franklin
National Bank
One Wall Street
New York, New York 10005
(212) 943-6500

Of Counsel:

Robert S. Anderson



8-9/5

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BRIEF OF DEFENDANT-APPELLEE
FRANKLIN NATIONAL BANK

Franklin National Bank ("Franklin"), represented in this action by its Receiver, Federal Deposit Insurance Corporation ("FDIC"), submits this brief in opposition to plaintiffs' appeal from the Order of the United States District Court for the Southern District of New York dated September 30, 1975, as

amended October 2, 1975, dismissing plaintiffs' action as against Franklin.

Position of Franklin and
FDIC in This Litigation

By stipulations dated February 4, 1976 plaintiffs consented to the dismissal of their action as against FDIC and agreed to seek no money judgment as against Franklin. Both stipulations were so ordered by the District Court March 1, 1976.

ARGUMENT

Plaintiffs' appeal should be denied for the reasons set forth in Point II of the Brief of Defendant-Appellee European-American Bank & Trust Company. Franklin requests that it be awarded double costs and attorneys fees.

Respectfully,

HUGHES HUBBARD & REED
Attorneys for Federal Deposit
Insurance Corporation
as Receiver of Franklin
National Bank
One Wall Street
New York, New York 10005
(212) 943-6500

Of Counsel:

Robert S. Anderson

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

AFFIDAVIT
OF SERVICE

Robert S. Anderson , being duly sworn, deposes
and says that he resides at 472 Thirteenth Street, Brooklyn,
New York

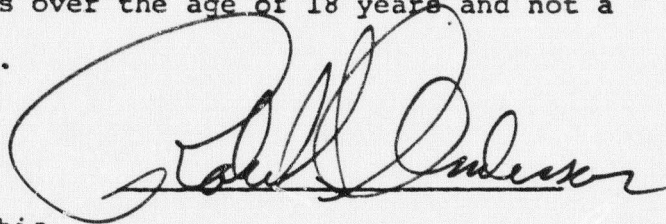
 ; that on the 16th day of July , 1976,
he served the within Brief of Defendant-Appellee Franklin National
Bank

on the attorneys for plaintiffs-appellants; defendant-appellee,
European-American Bank and Trust Company and defendant-appellee
Bankers Trust Company
herein by mailing a true copy thereof, securely enclosed
in a post-paid, properly addressed wrapper, in the mail
box under the exclusive care and custody of the United
States Postal Service at the corner of Wall Street and
Broadway, New York, New York, addressed to said attorneys
as follows:

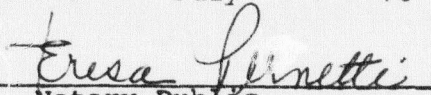
Hauser & Rosenbaum, P.D., 350 Fifth Ave., N.Y., N.Y. 10001
Charles Leeds, Esq., 1775 Broadway, N.Y., N.Y. 10019
Sullivan & Cromwell, 48 Wall Street, N.Y., N.Y. 10005

The above addresses have appeared on the prior
papers in this action as the office addresses of said
attorneys.

Deponent is over the age of 18 years and not a
party to this action.



Sworn to before me this
16th day of July , 1976.


Notary Public

TERESA PERNETTI
Notary Public, State of New York
No. 41-8329800
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1978